IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.300 OF 2006
ALONGWITH
CRIMINAL APPLICATION NO.380 OF 2006

Sanjeev Singh Chadha ..Applicant
V/s.
State of Maharashtra & Ors. ..Respondents

Mr.Mahesh Jethmalani Senior Advocate with Junaid Shabwany i/by Mr.Yogesh Rohira for the applicant.

Mr.A.P.Mundargi Senior Advocate with Mr.P.M.Rustam Khan for original Complainant.

Mrs.P.H.Kantharia APP for the State.

Mr.R.F.Lambey Advocate for CBI.

Coram : R.S.Mohite,J

Date : 29.6.2006.

PC

1. Both these applications for grant of anticipatory bail are filed by the same person Mr.Sajeev Singh Chadha. In Criminal application no.300 of 2006 anticipatory bail has been sought in respect of 3 separate crimes. The first is in connection with FIR 261/2005 originally registered by the Gamdevi police station, the investigation of which is now transferred to GBCB, CID who have re-numbered the case as FIR No.122/2005. In this case I am informed by both sides that the charge-sheet has been filed and case is numbered as

382/M/04 which is pending before the 12th Court, Bandra. APP informed me that further investigation is however, in progress in this matter. The 2nd case is FIR no.22/2005 registered by the Malbar Hill police station for alleged offence under Section 379 of IPC and the 3rd case is MECR no.01/2006 registered by the Bandra police station upon an order passed under Section 156(3) of Cr.P.C. by a Magistrate before whom a private complaint was filed.

2. Criminal Application no.380/2006 is an application where the same applicant seeks anticipatory bail in respect of FIR bearing RC/31/E/2006/CBI/EOW/Mumbai/380/2006 registered by the CBI for alleged offences under Sections 120-B, 420, 467, 468 & 475 of IPC.

3. I heard both the sides at length and perused the entire record including the investigation papers relating to the 4 cases referred to here-in-above. In my view, this is not a fit case for grant of anticipatory bail.

4. As regards FIR 122/2005 being investigated by the GBCB, CID, EOW, the same has been registered on a complaint which is made by one Dr.Rustom Boyce. The substance of the allegation in the complaint against the present applicant is that on 19.10.2005

when he was out of the country, he received a phone call from his father-in-law informing him that work of renovation is going on in his bungalow by name Hormuzd Villa. He informed the Gamdevi police station and when the duty officer visited the premises, he found the present applicant in occupation. In the course of the investigation the applicant contended that he had obtained the tenancy rights in respect of the bungalow under tenancy agreement executed by Mr.Rajkumar Mishra who claimed to be power of attorney holder. It appears that the applicant also filed a suit being RAD No.1504/2005 for declaration that he was a tenant but that suit has ultimately been withdrawn. Be that as it may, it was contended that the present applicant himself has been cheated by Mr.Mishra and that he had no knowledge that the power of attorney under which Mishra had executed a tenancy agreement was a forged and bogus document. I am not in a position to accept this contention at this stage. It is seen that the original tenancy agreement is undated. The total amount said to have been paid is Rs.51,00,000/- out of which the sum of approximate Rs.36,00,000/- was paid to 2 occupants and only a cheque of Rs.15,06,000 was issued in the name of Mr.Rustom Boyce and possession was taken before the said cheque was encashed. Investigation indicate that the part of the bungalow is about 4000 sq.feet and it is very difficult to believe that it was

merely a good bargain. In my view, this matter requires custodial interrogation.

5. The 2nd FIR being FIR No.22/2005 registered by the Malbar Hill police station, the same has been registered initially for offence under Section 379 of IPC on a complaint made by the Indian Bank. The nature of the grievance in the complaint is that the present applicant alongwith one Ashok Acharya came to the bank premises on 25.10.2004 and stole certain documents which pertain to the mortgage of premises to the bank thus depriving the bank of documents pertaining to security valued Rs.2 crores and 18 lakhs. In this regard, it was sought to be argued for the applicant that though incident is supposed to have taken place on 25.10.2004, the Malbar Hill police station recorded the FIR after a delay of 7 months on 14.5.2005. It appears that the bank had in fact lodged a complaint on 17.11.2004 and this complaint is lodged within a period of about 3 weeks from the offence being discovered. The delay is explained by stating that attempts were made to contact the present applicant in order to find out the truth. But the complainant only contended that he had taken a zerox copy. The co-accused in the meanwhile was not available and was said to have gone to his native place at Kerala. Be that as it may, mere delay in the registration of the offence

by the police station cannot by itself entitle the applicant to claim anticipatory bail because these documents which are valuable security to the extent of Rs.2 crores and 18 lakhs are yet to be traced. In my view, this is also a case for custodial interrogation.

6. The 3rd case which is registered against the present applicant is MECR No.01/2006 registered by the Bandra Police station. That MECR has been registered after a private case was filed by Mrs.Naseem Banoo Panjwani in the Court of Addl.Chief Metropolitan Magistrate for the alleged offences under Sections 392, 399, 403, 408, 420 471 r/w 34 of IPC. On this complaint an order under Section 156(3) of Cr.P.C. came to be passed and that is how Bandra police have seized the matter. On perusal of the complaint it is clear that the present applicant and atleast 2 of the other accused are persons who are either made accused or likely to be made accused in the case before the GBCB, CID, EOW. The modus operandi also appears to be the same. In this connection it was sought to be argued that the Complainant has received several cheques and in fact encashed those cheques. Advocate for the applicant submitted that cheques have been encashed in a joint account between the Complainant and her minor son. In my view, anybody can submit the cheque for encashment by putting the same in the bank. The

police will have to see the original pay-in-slip of the bank in order to find out whether they are also forged. In any case the person will have to be put up before the bank officers for identification. In my view, this is also a case which requires custodial interrogation.

7. The case with the CBI i.e. FIR RC31E/2006-Mum before the Special Court, CBI Mumbai registered by CBI (EOW)/ Mumbai/380/06 is now registered by the CBI and is the latest in the series of cases against the present applicant. That has been registered on the complaint raised by the Indian bank alleging that several bills of lading in respect of goods were forged. Before making the complaint to the police, bank has made some enquiry and has obtained a letter from the shipping line stating that the bills of lading were bogus and that no goods were shipped. In my view, this also requires custodial interrogation.

8. In the net result, the 2 applications are rejected. At this stage, Advocate for the applicant states that he has been under the protection from the order of this Court from 25.1.2006 and the Court has recorded that he has reported to the police officer as per the directions of the Court. He seeks time upto 10.7.2006 to surrender and files an

undertaking stating that he will report to the PI A.B.Jadhav EOW Unit-II, GBCB, CID, Mumbai from 29th June till 9.7.2006. The undertaking is taken on record and marked "X" for identification. APP states that time may be granted subject to the condition that he should report to the aforesaid PI Jadhav every day from 29.6.2006 till 9.7.2006 between 5.00 PM to 6.00 PM. In view of such an undertaking being filed in this Court today, the applicant is given time upto 10.7.2006 to surrender to the I.O. who is investigating the FIR No.122/2005 by the GBCB, CID EOW, Unit-II subject to the condition that the applicant will report to the said IO everyday from 29.6.2006 till 9.7.2006 between 5.00 & 6.00 PM. It is made clear that if any single day default is made in reporting, this concession shall stand withdrawn and the investigating agency will be free to arrest the applicant. Both these applications stand disposed of. Authenticated copy of this order be provided to the parties.

(R.S.Mohite,J)